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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2013-278

11 **MAGDALENE KADINMA D. JUWAH**  
12 **A.K.A. MAGDALENE KADINMA 'DELU,**  
13 **MAGDALENE KADINMA PACHMS AND**  
**MAGDALENE KADINMA ONWODI**  
14 **P.O. Box 10063**  
**Grand Lake Station**  
**Oakland, CA 94610**

**ACCUSATION**

15 **Registered Nurse License No. 534224**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about July 24, 1997, the Board of Registered Nursing issued Registered Nurse  
24 License Number 534224 to Magdalene Kadinma D. Juwah, A.K.A. Magdalene Kadinma 'Delu,  
25 Magdalene Kadinma Pachms and Magdalene Kadinma Onwodi (Respondent). The Registered  
26 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
27 will expire on December 31, 2012, unless renewed.  
28

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

..."

6. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

7. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

8. California Code of Regulations, title 16, section 1443.5 states:

1 "A registered nurse shall be considered to be competent when he/she consistently  
2 demonstrates the ability to transfer scientific knowledge from social, biological and physical  
3 sciences in applying the nursing process, as follows:

4 "(1) Formulates a nursing diagnosis through observation of the client's physical condition  
5 and behavior, and through interpretation of information obtained from the client and others,  
6 including the health team.

7 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and  
8 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and  
9 for disease prevention and restorative measures.

10 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health  
11 treatment to the client and family and teaches the client and family how to care for the client's  
12 health needs.

13 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the  
14 subordinates and on the preparation and capability needed in the tasks to be delegated, and  
15 effectively supervises nursing care being given by subordinates.

16 "(5) Evaluates the effectiveness of the care plan through observation of the client's physical  
17 condition and behavior, signs and symptoms of illness, and reactions to treatment and through  
18 communication with the client and health team members, and modifies the plan as needed.

19 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve  
20 health care or to change decisions or activities which are against the interests or wishes of the  
21 client, and by giving the client the opportunity to make informed decisions about health care  
22 before it is provided."

23 9. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
24 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
25 licensee or to render a decision imposing discipline on the license.

26 10. Section 118, subdivision (b), of the Code provides that the expiration of a license  
27 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period  
28 within which the license may be renewed, restored, reissued or reinstated.

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## FACTUAL BACKGROUND

12. R.H. was a 35 year old deaf-mute patient who was admitted to John George Psychiatric Pavilion in San Leandro, California on January 7, 2010. She was transferred from God's Grace Care, a board and care facility, after she began to decompensate after medication changes. R.H. suffered from mild delayed development, schizophrenia, hypertension and diabetes. The psychiatrist on duty at John George Psychiatric Pavillion evaluated R.H. and ordered her admitted to the psychiatric inpatient unit with "Q15"<sup>1</sup> observation. R.H. was conscious at the time of admission, and able to walk to the psychiatric inpatient unit.

13. Respondent was employed as the nurse assigned to R.H. on the night shift at John George Psychiatric Pavillion when R.H. was admitted. At 23:40 another registered nurse performed an assessment of R.H. Although checks were ordered every 15 minutes, Respondent checked her only at 00:00, 00:15 and 01:00 on January 8, 2010 (a mental health specialist did perform 15 minute checks every 15 minutes, but Respondent did not). At 02:45 on January 8, 2010, Respondent was advised that R.H. was unresponsive. Respondent brought the crash cart to R.H.'s room, where C.P.R. was being performed by the charge nurse and an L.V.N. Respondent failed to complete a Code Blue Record. R.H. was resuscitated and transferred to Eden Medical Center at 03:30. R.H. never regained consciousness and died on January 19, 2010 at Eden Medical Center. The cause of death was determined to be "terminal anoxic encephalopathy" and "cardiopulmonary arrest during agitated psychotic state."

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<sup>1</sup> Q15 observation requires a patient to be visually observed every 15 minutes for assault, suicide and disorganized behavior.

1 FIRST CAUSE FOR DISCIPLINE

2 (GROSS NEGLIGENCE)

3 14. Respondent is subject to disciplinary action under section 2761(a)(1) in that she was  
4 grossly negligent when she failed to perform an assessment of R.H. upon her admission to the  
5 psychiatric inpatient unit, as alleged above.

6 15. Respondent is subject to disciplinary action under section 2761(a)(1) in that she was  
7 grossly negligent when she failed to perform checks on R.H. every 15 minutes as alleged above.

8 SECOND CAUSE FOR DISCIPLINE

9 (INCOMPETENCE)

10 16. Respondent is subject to disciplinary action under section 2761(a)(1) in that she was  
11 incompetent when she failed to perform an assessment of R.H. upon her admission to the  
12 psychiatric inpatient unit, as alleged above.

13 17. Respondent is subject to disciplinary action under section 2761(a)(1) in that she was  
14 incompetent when she failed to perform checks on R.H. every 15 minutes as alleged above.

15 18. Respondent is subject to disciplinary action under section 2761(a)(1) in that she was  
16 incompetent when she failed to complete the Code Blue Record as alleged above.

17 THIRD CAUSE FOR DISCIPLINE

18 (UNPROFESSIONAL CONDUCT)

19 19. Respondent is subject to disciplinary action under section 2761(a) in that she acted  
20 unprofessionally when she failed to perform an assessment of R.H. upon her admission to the  
21 psychiatric inpatient unit, as alleged above.

22 20. Respondent is subject to disciplinary action under section 2761(a) in that she acted  
23 unprofessionally when she failed to perform checks on R.H. every 15 minutes as alleged above.

24 21. Respondent is subject to disciplinary action under section 2761(a) in that she acted  
25 unprofessionally when she failed to complete the Code Blue Record as alleged above.

26 PRAYER


27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
28 and that following the hearing, the Board of Registered Nursing issue a decision:

1        1.     Revoking or suspending Registered Nurse License Number 534224, issued to  
2     Magdalene Kadinma D. Juwah A.K.A. Magdalene Kadinma 'Delu, Magdalene Kadinma Pachms  
3     and Magdalene Kadinma Onwodi;

4        2.     Ordering Magdalene Kadinma D. Juwah A.K.A. Magdalene Kadinma 'Delu,  
5     Magdalene Kadinma Pachms and Magdalene Kadinma Onwodi to pay the Board of Registered  
6     Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to  
7     Business and Professions Code section 125.3;

8        3.     Taking such other and further action as deemed necessary and proper.  
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10  
11     DATED: October 11, 2012

  
12     for LOUISE R. BAILEY, M.ED., RN  
13     Executive Officer  
14     Board of Registered Nursing  
15     Department of Consumer Affairs  
16     State of California  
17     Complainant

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